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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,444	07/09/2001	William H. Barber	394423	9729

30955 7590 04/26/2005

LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER, CO 80301

EXAMINER

CHILCOT, RICHARD E

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/903,444	Applicant(s) BARBER ET AL.	
	Examiner Richard E. Chilcot, Jr.	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanoh et al. in view of Muftic. Kanoh et al. show kiosks (3), which dispense CDs, see

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col. 1, lines 7-12, and receives the CDs back. The kiosks of Kanoh et al. are connected to a remote host computer 50; see col. 5, lines 33-40. Kanoh et al. include a reader 61 that reads bar codes on the CDs and indicates when a CD is erroneously returned; see col. 6, lines 13-16. Kanoh et al. maintain an inventory of the rented CDs and the location of the CDs in the kiosk; see col. 7, lines 35-64. Kanoh et al. disclose electronic transmission of charges to a credit card company, see col. 4, lines 28-31, 47-49, col. 9, lines 43-50 and col. 10, lines 5-12. However, Kanoh et al. do not disclose electronically transmitting a receipt to the user. On the other hand, Muftic discloses a system for secure electronic transactions including transmitting an electronic receipt of the transactions. Accordingly, it would have been obvious for one having ordinary skill in the art at the time of the invention to provide the device of Kanoh et al. with means to electronically transmit the receipt to the customer, as suggested by Muftic. The motivation of such a change would have allowed the customer a complete record of the transaction.

Claims 42-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanoh et al. in view of Muftic. and Reid et al. Kanoh et al. show kiosks (3), which dispense CDs, see col. 1, lines 7-12, and receives the CDs back. The kiosks of Kanoh et al. are connected to a remote host computer 50; see col. 5, lines 33-40. Kanoh et al. include a reader 61 that reads bar codes on the CDs and indicates when a CD is erroneously returned; see col. 6, lines 13-16. Kanoh et al. maintain an inventory of the rented CDs and the location of the CDs in the kiosk; see col. 7, lines 35-64. Kanoh et al. disclose electronic transmission of charges to a credit card company, see col. 4,

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lines 28-31, 47-49, col. 9, lines 43-50 and col. 10, lines 5-12. However, Kanoh et al. do not disclose electronically transmitting a receipt to the user. On the other hand, Muftic discloses a system for secure electronic transactions including transmitting an electronic receipt of the transactions. Accordingly, it would have been obvious for one having ordinary skill in the art at the time of the invention to provide the device of Kanoh et al. with means to electronically transmit the receipt to the customer, as suggested by Muftic. The motivation of such a change would have allowed the customer a complete record of the transaction. Reid et al. is submitted to show a storage carousel 32 for holding the articles. Accordingly, it would have been obvious for one of ordinary skill to substitute the carousel of Reid et al. for the storage means of Kanoh et al. since the storage means are equivalent and either means would have worked equally well in the dispenser of Kanoh et al.

Response to Arguments

Applicant's submission of a Terminal Disclaimer filed January 21, 2005; with respect to the obvious-type double patenting rejections have been fully considered and are persuasive. The rejection of claims 1-62 under double patenting has been withdrawn.

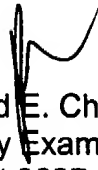
Applicant's arguments with respect to claims 1-62 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard E. Chilcot, Jr. whose telephone number is (571) 272-6777. The examiner can normally be reached on 5/4/9 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard E. Chilcot, Jr.
Primary Examiner
Art Unit 3627